

# EXHIBIT 3

<p style="text-align: right;">957</p> <p>1        Monadnock v. Glasswall - Volume IV 2              record.) 3        DIRECT EXAMINATION 4        BY MR. KLEINHENDLER: 5        Q    Good morning, Mr. Bauso. 6        A    Good morning. 7        Q    Could you explain to the panel 8              your educational and professional 9              background? 10      A    Educational, some college. I 11     have been in the construction industry in 12     various capacities for close to 30 years 13     now. 14      Q    And where have you worked? 15      A    I have worked for a number of 16     different general contractors in the five 17     boroughs. I have worked for an 18     organization that was renovating vacant 19     properties in East New York through City 20     programs. 21      And I have been with Monadnock 22     construction, I believe, 18 years now, 18 23     or 19 years. 24      Q    What is your current title at 25     Monadnock?</p>	<p style="text-align: right;">959</p> <p>1        Monadnock v. Glasswall - Volume IV 2              A    The architectural design of 3              this wall was -- was a major feature of the 4              building. So we actually found Glasswall 5              as a recommendation from somebody on the 6              architectural team, felt like -- knew their 7              work and felt like they were capable of 8              doing a good job with this design. 9              They had only completed one 10     project in New York at that time with 11     Skanska. And I spoke with the individuals 12     involved with that, and they had very good 13     things to say about Glasswall. 14      Q    One second. You spoke to the 15     guys at Skanska? 16      A    Yes. 17      Q    Okay. 18      A    Yes. A guy named David, who I 19     actually knew, had good things to say, 20     verified with a lot of the local references 21     in Miami, where obviously most of their 22     work had been done, spoke to the gentleman 23     at Coastal Construction and other 24     contractors down there. 25      And, obviously, the most</p>
<p style="text-align: right;">958</p> <p>1        Monadnock v. Glasswall - Volume IV 2        A    Current title is president. 3        Q    Did there come a time where you 4              got involved with the Hunters Point parcel 5              A, parcel B project that is the subject of 6              this case? 7        A    Yes. 8        Q    And tell us when you got 9              involved. 10      A    I was part of the team that 11     responded to the City RFP, so really right 12     from the beginning, helping conceive this 13     project, putting together the team, 14     submitting the application to the City, 15     which obviously we won, and overseeing the 16     whole development and construction process. 17      Q    Now, in connection with your 18     role as the construction manager on the 19     case, did you ultimately have 20     responsibility for hiring a curtain wall 21     contractor? 22      A    Yes. 23      Q    What did you do to look for 24     one, and then how did you end up with 25     Glasswall?</p>	<p style="text-align: right;">960</p> <p>1        Monadnock v. Glasswall - Volume IV 2              important part of the vetting process with 3              them and any sub is a large number of 4              meetings that lasted several hours where we 5              would go through with them every detail and 6              every aspect of this project and this wall 7              to make sure that they fully understood the 8              project, fully understood the requirements 9              of the project, and had it covered in a 10     number. 11      Q    So let's just go to show you 12     Exhibit 2. 13      (Previously Marked Exhibit No. 14     2, E-Mail from Mr. Bauso to Federico 15     in March of 2012, Document is 16     introduced into the proceedings.) 17      Q    Which is an E-Mail from you to 18     Federico in March of 2012, do you see that? 19      A    Okay. 20      Q    Okay. We know this, but we 21     want you to describe background. 22      Who is Federico? 23      A    So Federico at the time was the 24     president and my main contact at Glasswall. 25      Q    Okay. And you started having</p>

	981		983
1	Monadnock v. Glasswall - Volume IV	1	Monadnock v. Glasswall - Volume IV
2	you thought that your company -- not	2	been accepted, excluding ongoing litigation
3	you -- but the company thought that	3	in Florida and arbitration in New York with
4	the company was at risk.	4	the project's window manufacturer."
5	And I was told that this is not	5	Do you see that?
6	an at-risk CM agreement.	6	A    Yes, I do.
7	So could you comment on that?	7	Q    Is it your understanding that,
8	THE WITNESS: We were not at	8	although you delivered the project to
9	risk in terms of costs. It was -- you	9	Related, you still have obligations under
10	know, although there were requirements	10	your CM contract with regard to this
11	for us to perform and meet dates and	11	litigation with Glasswall?
12	meet, you know, project budget goals,	12	A    Yes, that is my understanding.
13	it was structured in a way that it's	13	CHAIRMAN ROSSI: What date is
14	kind of almost as CM agent or cost	14	that letter, again?
15	plus type contract. There's no dollar	15	MR. KLEINHENDLER: December 3,
16	amount.	16	2015. That's when the --
17	MS. FODOR: Except for your --	17	CHAIRMAN ROSSI: 2015. Okay.
18	except for your responsibility for the	18	Thank you.
19	work of your trade contractors.	19	CONTINUED EXAMINATION
20	THE WITNESS: We have	20	BY MR. KLEINHENDLER:
21	responsibility for the work. We are	21	Q    Okay. All right. And there is
22	responsible for the trades --	22	another letter for the other building,
23	MS. FODOR: Exactly.	23	right? That is Exhibit 197.
24	THE WITNESS: -- and we're	24	A    I understand.
25	responsible to deliver the project by	25	(Previously Marked Exhibit No.
	982		984
1	Monadnock v. Glasswall - Volume IV	1	Monadnock v. Glasswall - Volume IV
2	the date that it's established.	2	196, 12/3/15 Letter from Related about
3	MS. FODOR: Okay. I just	3	Parcel B, Document is introduced into
4	wanted to clarify that.	4	the proceedings.)
5	MR. KLEINHENDLER: You don't	5	Q    That's parcel A.
6	have to get your books. I want to	6	And then we have 197 is the
7	show you 196 up on the screen.	7	same thing for parcel B. And it has the
8	MR. RENDA: I'm sorry. What	8	same carve out.
9	page?	9	Do you see that? Do you see
10	MR. KLEINHENDLER: This is --	10	that second line, "excluding ongoing
11	this is Exhibit 196. You have seen it	11	litigation"?
12	before. It's in book -- I believe	12	Do you see that?
13	book B.	13	A    I see that.
14	(Previously Marked Exhibit No.	14	Q    Okay.
15	196, 12/3/15 Letter from Related about	15	CHAIRMAN ROSSI: Was there any
16	Parcel A, Document is introduced into	16	thought when you were negotiating this
17	the proceedings.)	17	contract -- any thought to having the
18	CONTINUED EXAMINATION	18	subcontracts just signed directly with
19	BY MR. KLEINHENDLER:	19	the owner?
20	Q    We can just -- do you see this	20	THE WITNESS: Very few
21	letter December 3, 2015, Related, on behalf	21	conversations. We were holding the
22	of the owner, is writing a letter. And I	22	insurance. And this is just
23	want you to just scroll it down.	23	traditionally the way we had always
24	It says here that:	24	worked with this client.
25	"We confirm that the above has	25	CHAIRMAN ROSSI: Just easier to

<p style="text-align: right;">989</p> <p>1      Monadnock v. Glasswall - Volume IV 2      about it?</p> <p>3            THE WITNESS: This is -- this 4      is standard language that I am 5      familiar with. It says that --</p> <p>6            CHAIRMAN ROSSI: Okay. 7      Overruled to that extent. Go ahead. 8      Go ahead.</p> <p>9            A Any recourse that the owner has 10     or responsibilities that we have towards 11     the owner are also an obligation of the 12     subcontractor. That's what this language 13     provided.</p> <p>14            MR. CINQUE: Okay. At this 15     point, I would make an objection to 16     this line of questioning. I think 17     what they're trying to do here is to 18     somehow just shoe-strap -- I want to 19     make an objection.</p> <p>20            MR. KLEINHENDLER: Are you 21     objecting to form?</p> <p>22            MR. CINQUE: The party here is 23     Monadnock. It's not the owner of the 24     project. And the only claim we are 25     facing here is based on the</p>	<p style="text-align: right;">991</p> <p>1      Monadnock v. Glasswall - Volume IV 2      disagree with it. He's trying to 3      say -- I -- I'm imagining -- I know 4      you are not arguing it at this 5      point -- but that somehow because 6      it's a -- because it's a reference 7      here, that they have the same rights. 8            So, again, I am not agreeing, 9      disagreeing.</p> <p>10          No, I understand what your 11     argument is, but you're arguing. And 12     at this point, we are just getting 13     facts.</p> <p>14          MR. CINQUE: Okay. I just want 15     the objection because --</p> <p>16          CHAIRMAN ROSSI: Yeah, I know.</p> <p>17          MR. CINQUE: -- I will probably 18     have to raise it later because there 19     is nothing in the demand for 20     arbitration that relates to this, the 21     contract that they have with the 22     owner. This is a total surprise.</p> <p>23          MS. FODOR: Can I -- can I 24     interject something here? 25          That is a typical flow-down</p>
<p style="text-align: right;">990</p> <p>1      Monadnock v. Glasswall - Volume IV 2      subcontract under the demand of 3      arbitration.</p> <p>4            That is what we are here to 5      litigate.</p> <p>6            Now, apparently, they are 7      trying to throw in an agreement we are 8      not a party to and saying that they 9      are suing under that agreement.</p> <p>10          It's not in the demand for 11     arbitration. The party, HPS, the 12     owner, does not have an arbitration 13     agreement with Glasswall.</p> <p>14          And if they wanted to bring a 15     claim, they could have brought a 16     lawsuit, but they never did.</p> <p>17          CHAIRMAN ROSSI: Right, but I 18     think -- I think -- first of all, what 19     he's referring to here -- what the 20     witness is testifying at this present 21     time, Exhibit 14, is a -- is a 22     document that your client is a party 23     to.</p> <p>24          So he is just trying to -- I am 25     not saying we are going to agree or</p>	<p style="text-align: right;">992</p> <p>1      Monadnock v. Glasswall - Volume IV 2      provision, and it incor -- the 3      subcontract incorporates all of the 4      terms of the prime contract as an 5      obligation of both your client's 6      obligation and his client's 7      obligation.</p> <p>8            And I was very interested in 9      addressing this just to understand how 10     the deal was structured. And so there 11     is nothing unusual, I think -- I don't 12     think, in having the prime contract 13     always kind of like incorporated by 14     reference in a subcontract so that the 15     subcontractor is bound by all of the 16     terms that the prime contractor is 17     bound by under the prime contract.</p> <p>18          MR. CINQUE: Yes, but I think 19     the argument that I am making is that 20     I think there is going to be an 21     attempt to somehow argue that they 22     stand in the shoes of the owner.</p> <p>23          And, therefore, they're -- 24     they're asserting the owner's claims 25     that the owner might have.</p>

<p style="text-align: center;">1001</p> <p>1        Monadnock v. Glasswall - Volume IV      2            CHAIRMAN ROSSI: No. Okay.      3            (There was a discussion off the      4            record.)      5            MR. RENDA: Just one thing,      6            there's a lot of exhibits; and I don't      7            know if we mentioned this. But we are      8            going to need an index of all your      9            exhibits so that, when we look for      10          something during deliberations, we      11          will be able to find it. Otherwise,      12          we will go through 16 volumes.</p> <p>13          MR. KLEINHENDLER: Absolutely.</p> <p>14          MR. RENDA: Okay. And then, I      15          would think, also, if it's not in      16          evidence, you would have discussed      17          that ahead of time; you would give      18          your list that you say is in evidence      19          to your adversary, vice versa.</p> <p>20          And then, if there is an issue      21          whether or not something went in or      22          not, if you can't work it out, then      23          you bring it to our attention.</p> <p>24          MR. KLEINHENDLER: Well, that's      25          a great idea. But what I was hoping</p>	<p style="text-align: center;">1003</p> <p>1        Monadnock v. Glasswall - Volume IV      2            up on the screen if you want.      3            And if you recall there was an      4            amendment agreement with Glasswall in 2014.      5            And then in March -- on March 4, 2015, you      6            signed a default letter, okay, to      7            Glasswall. And that's what I have open      8            here Exhibit 160.</p> <p>9            Just go to the next page.</p> <p>10          Okay. Now, you see that? Do      11          you remember that?</p> <p>12          A   Yes, I do.</p> <p>13          Q   Now, in here, there is a list;      14          and I am going to page 38118, a list of 30      15          items. Scroll down to the -- see -- stop      16          there.</p> <p>17          Do you see that?</p> <p>18          A   Yes.</p> <p>19          Q   Now, I want you to point out to      20          panel and then read any of these items that      21          would have prevented you from getting a TCO      22          on -- this relates to which parcel, parcel</p> <p>23          A.</p> <p>24          Go ahead.</p> <p>25          CHAIRMAN ROSSI: You mean a TCO</p>
<p style="text-align: center;">1002</p> <p>1        Monadnock v. Glasswall - Volume IV      2            to do is, when I'm finished with all      3            of my witnesses, I would just read      4            into the record all the exhibits I      5            believe are in.</p> <p>6            If he wanted to object at that      7            time, he could. So this way, if I've      8            got to still get something in, I want      9            to do it while I still have people      10          here as opposed to having a fight      11          about it, whatever is good for you.</p> <p>12          CHAIRMAN ROSSI: All right. We      13          will work that out, but that is a good      14          idea to have a list.</p> <p>15          MR. KLEINHENDLER: Yes, we will      16          give you a list with -- I just want to      17          go to -- we're jumping ahead a second.</p> <p>18          Q   I want to take you -- I want to      19          take you to Exhibit 160.</p> <p>20          (Previously Marked Exhibit No.      21          160, 3/4/15 Default Letter to      22          Glasswall signed by Greg Bauso,      23          Document is introduced into the      24          proceedings.)</p> <p>25          Q   It's in the second book. It's</p>	<p style="text-align: center;">1004</p> <p>1        Monadnock v. Glasswall - Volume IV      2            on the entire building?</p> <p>3          MR. KLEINHENDLER: Or any      4            portion thereof.</p> <p>5          CHAIRMAN ROSSI: Okay.      6          Because -- all right. Go ahead.</p> <p>7          MS. FODOR: For all the work,      8          not just the Glasswall?</p> <p>9          MR. KLEINHENDLER: Right.</p> <p>10         A   Just looking at this list now,      11          the first item, obviously, the four terrace      12          doors in parcel B.</p> <p>13         MR. RENDA: Could you just give      14          us a number. I just need the number.</p> <p>15         THE WITNESS: Number one.</p> <p>16         MS. FODOR: Number what?</p> <p>17         THE WITNESS: Number one.</p> <p>18         MR. KLEINHENDLER: On page      19          38118.</p> <p>20         A   So certainly number three.</p> <p>21         Q   Read it.</p> <p>22         A   "Replace all broken windows" --</p> <p>23         Q   Okay.</p> <p>24         A   -- "delivered to the project."      25          You know, I just want to add</p>

<p style="text-align: center;">1005</p> <p>1        Monadnock v. Glasswall - Volume IV      2 two and four, they are certainly a      3 possibility, although I wouldn't include      4 those for now. But depending on what an      5 inspector sees, there is certainly a      6 possibility.</p> <p>7        Number eight, "missing metal      8 in-fill panels."</p> <p>9        Number nine, "picture frame      10 metal for the store front," that certainly      11 could have prevented a passing TCO      12 inspection.</p> <p>13      Number ten as well, missing      14 panels.</p> <p>15      Number 13 certainly, "missing      16 limit stops on the windows" certainly is      17 something an inspector might have written      18 up as a violation.</p> <p>19      Number 16, "missing metal      20 copings."</p> <p>21      Number 18, "missing lock sets      22 of the balcony doors provided by      23 Glasswall."</p> <p>24      Number 19, "missing windows for      25 the roof bulkheads."</p>	<p style="text-align: center;">1007</p> <p>1        Monadnock v. Glasswall - Volume IV      2        A Yes, I think I recall that.      3        Q Okay. All right. I want you      4 to go to this -- this -- do you have it --      5 scroll down a little bit so they can look      6 at it on the first paragraph.</p> <p>7        Okay. It talks about a notice      8 of default --</p> <p>9            (There was a discussion off the      10 record.)</p> <p>11      Q Sorry.</p> <p>12      On March -- I'm in the second      13 sentence:</p> <p>14            "On March 4, Monadnock sent      15 Glasswall a notice of default detailing      16 various defaults by Glasswall of its      17 agreements."</p> <p>18      Do you see that?</p> <p>19      A Yes.</p> <p>20      Q And I believe there is a typo      21 here. Was this March 4, 2014, or 2015 --      22 or we can get to it.</p> <p>23            "The notice of default in      24 compliance with the agreements provided      25 Glasswall with a seven-working-day period</p>
<p style="text-align: center;">1006</p> <p>1        Monadnock v. Glasswall - Volume IV      2        And the remainder of the items,      3 while maybe things needed for substantial      4 completion, I don't think would be needed      5 for a certificate of occupancy to pass.</p> <p>6        Q Okay. Do you -- now, go back      7 to this document.</p> <p>8        Are you familiar that there is      9 a section in your subcontractor agreement      10 that requires you to give the other side      11 seven days' notice in order to make a      12 claim?</p> <p>13      A Yes, I recall that.</p> <p>14      Q Okay. I want to take you now      15 to Exhibit 171. Okay.</p> <p>16            (Previously Marked Exhibit No.      17 171, 3/27/15 Claim with Bonding      18 Company, Document is introduced into      19 the proceedings.)</p> <p>20      Q This is already March 27th. Do      21 you see that?</p> <p>22      A Yes, I do.</p> <p>23      Q And do you recall that, when      24 you defaulted out Monadnock, you also put a      25 claim in against the bonding company?</p>	<p style="text-align: center;">1008</p> <p>1        Monadnock v. Glasswall - Volume IV      2 to cure the defaults listed there."</p> <p>3        Do you see that?</p> <p>4      A Yes, I do.</p> <p>5      Q Do you agree that this notice      6 of default, at least in your mind,      7 satisfied the seven-day notice provision?</p> <p>8      A Yes, that's what I recall.</p> <p>9      Q Okay. And there were similar      10 letters for the other parcel, too?</p> <p>11     A Yes.</p> <p>12     Q They're in evidence.</p> <p>13            MR. RENDA: Can you just tell      14 me who Greenwall -- Green --</p> <p>15            THE WITNESS: Judah Greenblatt      16 at the time was an attorney      17 representing Monadnock.</p> <p>18            MS. FODOR: What is the date of      19 this letter.</p> <p>20            MR. KLEINHENDLER: March 27,      21 2015.</p> <p>22            CONTINUED EXAMINATION      23 BY MR. KLEINHENDLER:</p> <p>24            Q All right. Okay. I'm going to      25 go back now to the chronology. So we have</p>

<p style="text-align: center;">1013</p> <p>1        Monadnock v. Glasswall - Volume IV 2            Okay. 3        CONTINUED EXAMINATION 4        BY MR. KLEINHENDLER: 5        Q     Let's to Exhibit 57, please. 6            (Previously Marked Exhibit No. 7            57, E-Mail chain, top E-Mail dated 8            6/12/13 to Paul Colapinto from 9            Federico Balestrazzi, Document is 10          introduced into the proceedings.) 11          Q     And do you see that there is an 12        E-Mail below from Paul to Federico 13        acknowledging that he's going to be missing 14          some dates, but that there can be no more 15          delays? 16          Do you see that? 17          A     Yes, I do. 18          Q     All right. And do you see on 19          the top -- and you're copied -- where 20          Paul -- where Federico writes back and 21          says: 22          "I agree with you"?</p> <p>23          A     Yes, I do. 24          Q     Were there any conversations 25          with you and Federico on or about this time</p>	<p style="text-align: center;">1015</p> <p>1        Monadnock v. Glasswall - Volume IV 2            THE WITNESS: Yes. 3            CHAIRMAN ROSSI: -- either his 4          line or the supplier's, right? 5            THE WITNESS: So -- so even 6          after shop drawings are approved by 7          the architect -- 8            CHAIRMAN ROSSI: Right. 9            THE WITNESS: -- the curtain 10          wall guys have to -- their engineering 11          department has to produce very 12          specific cut sheets as to how they 13          want the metal, how they want the 14          glass sized and fabricated. 15          They can't just send the 16          approved shop drawings from the 17          architect to the metal factory. They 18          have to give very, very specific 19          engineered cut sheets to their 20          fabricators. 21          And, you know, it's one of the 22          things that we typically ask about, 23          because, if that isn't done, we have 24          good reason to believe that they are 25          not going to be able to get us the</p>
<p style="text-align: center;">1014</p> <p>1        Monadnock v. Glasswall - Volume IV 2          similar to what's going on in this E-Mail? 3          A     Yes. Myself, Andrew, and Paul 4          were all having conversations with him at 5          that time. We were obviously beginning to 6          be very concerned about what was -- what 7          was happening down there. 8          Q     Go ahead. Just tell me the 9          substance -- the substance of the 10       conversation and the assurances you were 11       getting from him. 12       A     Well, at the time he was 13       basically saying: 14       "Yes, our engineering and our 15       release dates are a little bit behind." 16       You know, a lot of what we were 17       focusing on was whether or not he had 18       released metal and glass, which requires a 19       significant amount of work by his 20       engineering department. 21       CHAIRMAN ROSSI: When you say 22       "release," you mean that he would have 23       to give that -- he would have to have 24       his engineers give it to the 25       manufacturer --</p>	<p style="text-align: center;">1016</p> <p>1        Monadnock v. Glasswall - Volume IV 2          windows when they are promising. 3          So just as a matter of 4          business, this is -- this is one of 5          the things we always focus on. And it 6          was becoming apparent that their 7          engineering department wasn't getting 8          these materials released when they 9          should have been. 10       MS. FODOR: The cut sheets? 11       THE WITNESS: The cut sheets to 12       the fabricators, yes. 13       MS. FODOR: So the shop drawing 14       gets prepared by Glasswall? 15       THE WITNESS: Correct. 16       MS. FODOR: It's sent to the 17       architect. And so the shop drawing by 18       Glasswall has all kinds of dimensions 19       and everything on the shop drawing? 20       THE WITNESS: Correct. 21       MS. FODOR: Because you want to 22       build from that. You send that to the 23       architect for approval? 24       THE WITNESS: Right. 25       MS. FODOR: The architect sends</p>

	1017		1019
1	Monadnock v. Glasswall - Volume IV	1	Monadnock v. Glasswall - Volume IV
2	it back, either rejecting, approved as	2	take you now to Exhibit 68.
3	noted, or just approved?	3	CHAIRMAN ROSSI: And that's not
4	THE WITNESS: Correct.	4	something that has to be go back to
5	MS. FODOR: What -- who --	5	the architect to be approved?
6	what -- where does the cut sheet come	6	THE WITNESS: No, at that
7	in?	7	point -- no, at that point, it doesn't
8	Once that is done, they are	8	go back. It's just -- it's really an
9	remeasuring everything?	9	internal thing after --
10	THE WITNESS: It's really --	10	CHAIRMAN ROSSI: Yeah, but is
11	what it is, is that shop drawing is	11	that something that people in the --
12	not in a form that the metal shop can	12	based upon your experience, people in
13	fabricate the metal extrusions from.	13	the curtain wall business know has --
14	MS. FODOR: So they redraw the	14	has to be done?
15	same thing, though?	15	THE WITNESS: Yeah, anybody who
16	THE WITNESS: So with different	16	is ordering metal.
17	information on it, but Glasswall's	17	CHAIRMAN ROSSI: Yeah, okay.
18	engineering department then takes that	18	THE WITNESS: So we became
19	approved shop drawing and produces an	19	aware of this because we were trying
20	engineering sheet for every piece of	20	to get verification from Keymark and
21	glass and every piece of metal	21	the glass manufacturer as to whether
22	extrusion that they need to fabricate	22	or not they were in production yet.
23	what is on those shop drawings, and	23	CHAIRMAN ROSSI: Who is
24	it's approved.	24	Keymark?
25	MS. FODOR: So just so that I	25	THE WITNESS: Keymark is the
	1018		1020
1	Monadnock v. Glasswall - Volume IV	1	Monadnock v. Glasswall - Volume IV
2	understand it, so one doesn't build	2	metal extruder.
3	from approved shop drawings; one	3	CHAIRMAN ROSSI: Okay.
4	builds from cut sheets?	4	THE WITNESS: So what we were
5	THE WITNESS: To some degree,	5	told is:
6	yes, that's absolutely true, yes.	6	"Yes, we have a purchase order
7	MS. FODOR: And there could be	7	from Glasswall," meaning they had an
8	variations between the shop drawings	8	agreement, "but we don't have the cuts
9	and the cut sheets?	9	to release for fabrication yet."
10	THE WITNESS: There shouldn't	10	So that was the information we
11	be -- there shouldn't be. Those cut	11	were getting. And we were questioning
12	sheets take the information off of	12	Federico:
13	those approved shop drawings and just	13	"We are running out of time
14	put it in a form that the various	14	here. What's going on?"
15	factories involved in fabricating can	15	MS. FODOR: So if one were to
16	then do what they need to do.	16	give the approved shop drawings to the
17	MS. FODOR: Okay. So is it an	17	ultimate supplier, they couldn't --
18	extensive exercise, time wise, to take	18	and they didn't have the cut sheets?
19	the approved shop drawings and prepare	19	THE WITNESS: Yes.
20	cut sheets?	20	MS. FODOR: They couldn't do
21	THE WITNESS: Yes, it is.	21	what they were supposed to?
22	MS. FODOR: Thank you. I	22	THE WITNESS: No. Keymark
23	didn't know that.	23	would not take those shop drawings and
24	THE WITNESS: Yes.	24	be able to fabricate metal extrusions
25	MR. KLEINHENDLER: I want to	25	from them.

<p style="text-align: right;">1025</p> <p>1        Monadnock v. Glasswall - Volume IV      2                    MR. KLEINHENDLER: Okay.      3        CONTINUED EXAMINATION      4        BY MR. KLEINHENDLER:      5            Q Let's go to Exhibit 68.      6                    (Previously Marked Exhibit No.      7                    68, E-Mail chain, top E-Mail dated      8                    7/17/13 from Paul Colapinto to      9                    Federico Balestrazzi, Document is      10                  introduced into the proceedings.)      11            Q Do you recall this E-Mail where      12                  it appears that Federico is moving the      13                  dates even a little more?      14            A Yes, that's what this      15                  correspondence seems to say.      16            Q Now, in July, are there more      17                  conversations with Federico about why      18                  are -- why are these days continuing to      19                  slip?      20            A Yes.      21            Q Describe the conversations.      22            A Well, again, we can tell that      23                  these were slipping just based on the fact      24                  that all the steps leading up to      25                  fabrication were not -- were not happening.</p>	<p style="text-align: right;">1027</p> <p>1        Monadnock v. Glasswall - Volume IV      2                    meeting down in Miami in August?      3            A Yes, I do.      4                    CHAIRMAN ROSSI: Did you go?      5                    THE WITNESS: Yes, I did.      6        CONTINUED EXAMINATION      7        BY MR. KLEINHENDLER:      8            Q Well, let's talk about that      9                  meeting. Who was there? What was      10                  discussed?      11            A So just a little context of      12                  that meeting, by that point in time,      13                  Federico had been fired by Ugo Colombo.      14                  Armand, who was Federico's main, you know,      15                  right-hand person, had been let go or quit.      16                  I really don't know.      17                  So myself, Nick Lembo, the      18                  founder of Monadnock, and several people      19                  from Related, flew down to meet with Ugo      20                  Colombo to discuss what is happening next      21                  now.      22            Q Okay. So tell us about the      23                  meeting.      24            A The basic --      25                    CHAIRMAN ROSSI: Did</p>
<p style="text-align: right;">1026</p> <p>1        Monadnock v. Glasswall - Volume IV      2                    So Paul and others were      3                  questioning Federico as to why they weren't      4                  happening, what's being done to catch up.      5                  And he wasn't giving answers. And the      6                  answers he was giving made it obvious that      7                  he wasn't going to make the dates he had      8                  previously committed to, even the revised      9                  dates he had previously committed to.      10            Q All right. Okay. I want to      11                  forward you now to Exhibit 81.      12                    (Previously Marked Exhibit No.      13                    81, 8/16/13 Letter from Clinton D.      14                    Flagg to Greg Bauso, Document is      15                  introduced into the proceedings.)      16            Q This is a letter from Clinton      17                  Flagg, dated August 16th, to you. Okay.      18                  Scroll up. Scroll down a little bit.      19                  And in this he refers to a      20                  meeting on August 13th in Miami. And then      21                  he says:      22                    "Glasswall intends to comply      23                  with the agreement, and window assembly      24                  will be ready to ship September 1st."      25                  So do you recall having a</p>	<p style="text-align: right;">1028</p> <p>1        Monadnock v. Glasswall - Volume IV      2                    Mr. Colapinto go also?      3                    THE WITNESS: I -- at that      4                  meeting, I don't believe so, no.      5                    CHAIRMAN ROSSI: Okay.      6        CONTINUED EXAMINATION      7        BY MR. KLEINHENDLER:      8            A Basically, Ugo's position at      9                  that time was:      10                  "I have got a mess here. This      11                  guy Federico left me with a tremendous mess      12                  here. I am trying to figure it out. And I      13                  don't yet have a date for you as to when      14                  you are going to get these windows. But      15                  I'm working on figuring it out."      16                  And, really, there wasn't      17                  anything more of substance discussed at      18                  that meeting.      19                  Q When -- when Federico left, did      20                  that impact any other employees leaving?      21                  A Well, Federico really had kind      22                  of put together that whole team that was      23                  running that factory, both, you know, on      24                  the floor and in the fabrication shop and      25                  in the engineering department.</p>

1        Monadnock v. Glasswall - Volume IV 2              So, yes, other people started. 3        I think there was a sense that there were 4              problems in the factory and other people 5              were starting to leave, also. 6        Q      Now, at this meeting in Miami, 7              did you ask for a letter from their lawyer 8              like the one you got here, Exhibit 81? 9        A      No, not at all. And this 10          lawyer was not at that meeting. 11          (Previously Marked Exhibit No. 12          84, 8/27/13 Letter from Clinton D. 13          Flagg to Greg Bauso, Document is 14          introduced into the proceedings.) 15          Q      Okay. Let's go to Exhibit 84. 16          There is another letter here from Clinton 17          Flagg. And here he's complaining about two 18          things, payments and joint check 19          agreements. 20          Could you discuss what you 21          recall that led to this letter in August, 22          August 27th? 23          A      So one of the things we were 24          discovering is that some of these vendors 25          had not gotten progress payments from	1029	1031 1        Monadnock v. Glasswall - Volume IV 2              think we are coming back to book one. 3        We are now on book two. 4        MS. FODOR: Sorry. What 5              exhibit? 6        MR. KLEINHENDLER: 86. This 7              is -- we will just do the things from 8              yesterday. You will take a minute to 9              read it, and then I will go to the 10          witness because this is new. 11          CHAIRMAN ROSSI: Go ahead. 12          (Previously Marked Exhibit No. 13          86, 9/9/13 Letter to Chad Zalman from 14          Greg Bauso, Document is introduced 15          into the proceedings.) 16          Q      Okay. So do you see here that 17          you are enclosing money for two parcels: 18              "And we have been advised by 19          your counsel that payment issues with 20          suppliers have been resolved." 21          Do you recall this letter and 22          this happening? 23          A      Yes, I do. 24          Q      And because of that you sent 25          out the payments that were owed?	1031
1030 1        Monadnock v. Glasswall - Volume IV 2          Glasswall, and there was some indication 3          that that was eventually going to be an 4          impediment to getting, you know, glass, 5          metal, and other materials fabricated. 6          We offered to Glasswall and to 7          the vendors, if necessary, to keep things 8          moving going to two-party checks, which at 9          one point I believe Glasswall was open to. 10         What was the rest of your 11         question? What else do you want me -- 12         Q      That's all -- that's what I 13         want you to talk about. 14         A      This letter. 15         Q      Okay. He just says: 16              "Please fund our prior payment 17          applications." 18         Do you see that? 19         A      Yep. 20         Q      Okay. We are taking you now to 21          book two, and I want to take you to 22          Exhibit 86. 23         MS. FODOR: Are we coming back 24          to book one? 25         MR. KLEINHENDLER: No, I don't	1030	1032 1        Monadnock v. Glasswall - Volume IV 2        A      Correct. 3        Q      Now, you are saying here in the 4              second: 5              "As we have advised you, we 6              have not processed payment applications due 7              to the fact that you haven't confirmed 8              orders." 9        Is it your understanding that, 10          until they confirmed orders and delivery 11          dates, they weren't entitled to material 12          payments? 13        Well, what are you -- what are 14          you saying here? 15        A      There were -- I don't remember 16          specifically the contract terms regarding, 17          you know, when certain progress payments 18          were due. But payments were delayed 19          because this began with Federico saying, 20          you know: 21              "Keymark may need a two-party 22          or a joint check agreement in order to feel 23          more comfortable with the situation going 24          forward." 25        So we were holding money at	1032

<p style="text-align: right;">1033</p> <p>1        Monadnock v. Glasswall - Volume IV 2 that point trying to figure out whether or 3 not we were making these two-party checks 4 or whether we were doing something else. 5 You know, as this was a critical part of 6 getting this metal released from 7 fabrication.</p> <p>8        Q Okay. Nevertheless, you are 9 saying in the next paragraph: 10        "We are giving you the money"?</p> <p>11        A Correct.</p> <p>12        Q Okay. So by September 9th, 13 Glasswall to your knowledge was not owed 14 any money under the contract?</p> <p>15        A I don't recall exactly, but 16 that's -- this is what this appears to say.</p> <p>17        CHAIRMAN ROSSI: Okay. Is this 18 the first check you sent to them? Do 19 you know?</p> <p>20        THE WITNESS: No, we had -- 21 look, part of the problem was I think 22 by September we had already paid them 23 several millions of dollars for 24 engineering, for performance mock-ups, 25 the material deposits they</p>	<p style="text-align: right;">1035</p> <p>1        Monadnock v. Glasswall - Volume IV 2 verified as realistic. 3              And up to that point in time, we 4 still had not really gotten that 5 information from Glasswall.</p> <p>6        Q Okay. So we are in September 7 now, and are you getting any window 8 deliveries?</p> <p>9        A No.</p> <p>10        Q So take you to Exhibit 87. 11              (Previously Marked Exhibit No. 12 87, 9/16/13 Fax Letter Notice of 13 Default, Document is introduced into 14 the proceedings.)</p> <p>15        Q This is a default letter. Do 16 you see that?</p> <p>17        A Yes.</p> <p>18        Q Okay. Do you understand -- 19 were you involved in the decision to issue 20 this notice of default?</p> <p>21        A Yes.</p> <p>22        Q So explain why you -- why 23 Monadnock did that.</p> <p>24        A At this point in time, even 25 though Glasswall had acknowledged they had</p>
<p style="text-align: right;">1034</p> <p>1        Monadnock v. Glasswall - Volume IV 2 requested -- and we paid deposits to 3 their materials suppliers, which we 4 paid to Glasswall, not directly to the 5 suppliers.</p> <p>6        So just keep in mind at this 7 point in time we were out of pocket 8 several million dollars, and things 9 were not moving along very well. And 10 it was a growing concern as to where 11 this was all going.</p> <p>12        CHAIRMAN ROSSI: Okay. Thank 13 you.</p> <p>14        CONTINUED EXAMINATION 15 BY MR. KLEINHENDLER:</p> <p>16        Q Okay. And, finally, you are 17 making a request for a firm schedule as to 18 when you will begin delivering windows.</p> <p>19        What kind of schedule were you 20 looking for in that last sentence?</p> <p>21        A We had been asking for a 22 detailed schedule showing all the 23 milestones leading up to, you know, 24 assembly of windows and delivery to the job 25 site, you know, with dates that could be</p>	<p style="text-align: right;">1036</p> <p>1        Monadnock v. Glasswall - Volume IV 2 a problem, we didn't feel like enough steps 3 were being taken to fix that problem. And 4 we felt we needed to send this default 5 letter out to protect ourselves.</p> <p>6        Q And so you sent one for each 7 parcel; that is 86 -- that is 87 and 88.</p> <p>8        A Correct. 9              (Previously Marked Exhibit No. 10 88, 9/16/13 Fax Letter Notice of 11 Default, Document is introduced into 12 the proceedings.)</p> <p>13        Q Did you also advise the bond -- 14 taking out Exhibit 89. 15              (Previously Marked Exhibit No. 16 89, 9/16/13 Bond Notice, Document is 17 introduced into the proceedings.)</p> <p>18        Q Did you also call on the bond 19 at this time?</p> <p>20        A Yes, absolutely.</p> <p>21        Q So tell us what Exhibit 89 is.</p> <p>22        A The bond requires -- I wouldn't 23 use the term we were "calling the bond," 24 but the bond requires that, when you call a 25 bonded subcontractor into default, that you</p>

<p style="text-align: right;">1037</p> <p>1        Monadnock v. Glasswall - Volume IV 2 give proper notification that this is 3 happening to the bonding company. So this 4 is really not necessarily calling the bond, 5 but it's a notification that is required.</p> <p>6        Q   You did that for both parcels?</p> <p>7        A   Correct.</p> <p>8        Q   Okay. So I want to take you -- 9 by now, there are lawyers involved in this?</p> <p>10      A   Yes.</p> <p>11      Q   There are lawyers writing 12 letters back and forth?</p> <p>13      A   Yes.</p> <p>14      Q   That's what we see in 15 Exhibit 93. 16            (Previously Marked Exhibit No. 17            93, 9/24/13 Letter from Flagg to 18            Lembo, Document is introduced into the 19            proceedings.)</p> <p>20      Q   You have a letter here from 21      Clinton Flagg to Mr. Lembo?</p> <p>22      A   Yes.</p> <p>23      Q   And then in '94 we have got 24      Greenblatt Lesser writing back. The 25      lawyers are fighting it?</p>	<p style="text-align: right;">1039</p> <p>1        Monadnock v. Glasswall - Volume IV 2            And they agreed to allow us to 3 have somebody down there. And Steve was 4 the guy retained to do that.</p> <p>5        Q   And was Steve sending you 6 reports from down there?</p> <p>7        A   From what I recall, yeah, I 8 don't remember the frequency of them, 9 whether they were daily or weekly; but, 10 yes, he was.</p> <p>11      Q   And just in general what was 12 Steve telling you?</p> <p>13      A   Generally, what was going on. 14 At this point, John Anderson had come in as 15 Federico's replacement, you know --</p> <p>16      Q   Sorry. Come in where?</p> <p>17      A   John -- Ugo Colombo had hired 18 by now John Anderson as the new president 19 of the company.</p> <p>20      Q   Of Glasswall?</p> <p>21      A   Of Glasswall.</p> <p>22      Q   Go ahead.</p> <p>23      A   So John was responsible for 24 getting this order filled. And there was 25 some progress being made, but it was in</p>
<p style="text-align: right;">1038</p> <p>1        Monadnock v. Glasswall - Volume IV 2            (Previously Marked Exhibit No. 3            94, 10/2/13 Letter from Greenblatt to 4            Flagg, Document is introduced into the 5            proceedings.)</p> <p>6        A   That's a good way to describe 7 it, I guess.</p> <p>8        Q   All right. Now, at this 9 point -- do you know who a guy named Steve 10 Barber is?</p> <p>11      A   Yes.</p> <p>12      Q   All right. Tell me who he is 13 and when he came on the scene.</p> <p>14      A   I don't remember specifically 15 dates. But around the time that it seemed 16 that window was assembly was going to begin 17 in the factory, we asked Glasswall if we 18 could have a representative down there at 19 the factory just to monitor progress, not 20 necessarily monitor quality control as 21 there were others doing that, but keep an 22 eye on that as well, but really mainly just 23 to monitor that things were moving forward 24 in an orderly fashion that was going to get 25 us windows on the site.</p>	<p style="text-align: right;">1040</p> <p>1        Monadnock v. Glasswall - Volume IV 2 fits and starts. I don't know how else to 3 categorize it.</p> <p>4            It was still a little bit in 5 disarray, although there was some progress 6 being made.</p> <p>7        Q   And was Steve Barber telling 8 you -- what was he telling you? Was he 9 satisfied, dissatisfied?</p> <p>10      A   In general, Steve is saying, 11 you know, they have got a couple of lines 12 working, but not all of the material they 13 need to continue working is here. Some of 14 it is not being assembled correctly.</p> <p>15            Again, there continued to be a 16 trend of people leaving the engineering 17 department, of people -- I think at some 18 point the floor manager quit. You know, 19 there were -- there were lots of 20 indications that, you know, things were 21 moving, but not necessarily in a straight 22 line.</p> <p>23        Q   Okay. And who is IBA on this 24 project?</p> <p>25        A   They are Israel Berger</p>

1        Monadnock v. Glasswall - Volume IV 2        A    Okay. 3        Q    Do you have any windows yet? 4        A    No. 5        Q    And lawyers are still fighting. 6        So Exhibit 101, Greenblatt Lesser is 7        writing a letter to Flagg; is that what you 8        see here? 9              (Previously Marked Exhibit No. 10      101, Greenblatt Lesser letter to 11      Flagg, Document is introduced into the 12      proceedings.) 13      A    Correct. 14      Q    He's representing you? 15      A    Judah Greenblatt, yes. 16      MR. RENDA: Which exhibit? 17      MR. KLEINHENDLER: 101. 18      (Mr. Colapinto arrived at the 19      arbitration.) 20      Q    So I want to take you to 21      Exhibit 109. And this is an E-Mail 22      thread -- start on the back page, which is 23      MC 10023. John Anderson is writing to you 24      on November 14th -- on November 14, 2013. 25      Take a look at that. We have	1        Monadnock v. Glasswall - Volume IV 2        A    So at the time from what I 3        remember, John had some quantity of windows 4        that he was purporting were ready for 5        shipment. But there was still a number of 6        open issues. There was still quality 7        control issues that had not been addressed 8        interest. 9              There was still an issue in my 10      mind of what is really our ongoing schedule 11      here, about all the material that they 12      needed to continue assembly was in their 13      shop. 14      There was some concern: 15      "Okay. We are going to take a 16      couple of trucks of windows, mobilize all 17      the iron workers. And then what happens? 18      You know, are they going to really have 19      material to continue working?" 20      There were a number of 21      different issues, somewhat of that going 22      on, that was making us a little nervous 23      about just saying: 24      "Okay. You have a few windows. 25      Send them to us."
1        Monadnock v. Glasswall - Volume IV 2        seen it a couple of times already, but I 3        want to you to read it. Okay. 4              (Previously Marked Exhibit No. 5        109, E-Mail thread, with Bates No. 6        MC 10023, from John Anderson to Greg 7        Bauso on November 14th, 2013, Document 8        is introduced into the proceedings.) 9        Q    Just follow through on the 10      thread. 11      A    Okay. What is your question? 12      Q    I want you to go through on the 13      thread here. 14      A    Okay. 15      Q    And then I'm going to ask you 16      question. Tell me when you are finished 17      reading it. 18      A    Okay. 19      Q    All right. So there is a back 20      and forth here about should you take 21      windows or not windows. So I want you 22      to -- other than what it says here -- 23      because we have seen it -- can you add some 24      color or background to the give and take 25      that this E-Mail string represents?	1        Monadnock v. Glasswall - Volume IV 2        You know. 3        Q    And other than the E-Mail 4        exchange, were there any telephone 5        conversations between you and John on this 6        issue? 7        A    Oh, just about daily, sure. 8        Q    All right. So other than what 9        is in here, can you add anything with those 10      conversations, or was it just more of the 11      same? 12      A    It was -- yeah, it was really 13      what I just said: 14      "How much do you have? What is 15      the plan to continue? When are you going 16      to have the next shipment available? What 17      are we doing about all of these open issues 18      on the IBA reports that have been talked 19      about?" 20      How do I know what is in these 21      crates, really, was what my concerns and 22      conversations were. 23      Q    And what was his answers to 24      those questions? 25      A    "We are working on it. We are

1        Monadnock v. Glasswall - Volume IV 2        working on it. We are working on it." 3              But there was no -- it was 4        really very little firm progress being 5        made. 6              CHAIRMAN ROSSI: Are you moving 7        off of this document? 8              MR. KLEINHENDLER: Yes. 9              CHAIRMAN ROSSI: I have a 10       question on this document. 11              MR. KLEINHENDLER: Go ahead. 12              CHAIRMAN ROSSI: You wrote to 13        Mr. -- Mr. Anderson at 2 o'clock on 14        November 14th. Do you see at the 15        bottom of that, on the first page, 16        22 -- 17              THE WITNESS: 2:13? 18              CHAIRMAN ROSSI: Yeah, you 19        see -- and you say: 20              "As well" -- "as" -- "As well, 21        please stop pretending that I did not 22        tell you personally on phone 23        conversation last night that we will 24        accept no windows until the agreement 25        is signed."	1049	1        Monadnock v. Glasswall - Volume IV 2        if you only have one window, what -- 3        what's the sense? Right. 4              But if he's got -- I think 5        there was something. I'm not sure. 6        I'd have -- I'd have to go back, but 7        there were several hundred, maybe a 8        thousand windows ready -- ready to go 9        at that point. 10         Yeah, just -- just tell me. 11              THE WITNESS: So I know -- I 12        think at that point there were less 13        than that. 14              CHAIRMAN ROSSI: Okay. 15              THE WITNESS: I think by the 16        end -- by the end of November, there 17        were a pretty good amount of windows. 18              CHAIRMAN ROSSI: Okay. 19              THE WITNESS: And there were 20        different issues at that point. 21              CHAIRMAN ROSSI: Okay. 22              THE WITNESS: But by that 23        point, there really weren't that many 24        windows made. We were a little 25        concerned about the quality.	1051
1        Monadnock v. Glasswall - Volume IV 2        What agreement are you talking 3        about? 4              THE WITNESS: I think at the 5        time, from what I remember, there had 6        been a meeting and some conversations 7        between Ugo Colombo and some people at 8        Related where there was some type of 9        agreement that they had told me was 10       going to be put in place regarding the 11       completion of the job. 12         I was not a party to those 13        conversations. And, ultimately, it 14       just never materialized into anything. 15         But at the time it was one of 16       the things that I was expecting to get 17       from Glasswall. 18         CHAIRMAN ROSSI: Okay. But 19       what do you -- what -- what -- what 20       were you -- what were you 21       accomplishing at that point by saying: 22         "We don't want -- we don't want 23       the windows that you have down there"?" 24         I mean, it just seems to me, 25       you know, if it were me, I mean, yeah,	1050	1        Monadnock v. Glasswall - Volume IV 2        Like I said, we were kind of 3        mitigating our damages from other 4        trades, mobilizing iron workers and 5        then having to tell them to stop. 6              And to be completely honest, 7        there was still in the back of our 8        minds: 9              "Where is this going? Are they 10        really going to be able to complete 11        this thing?" 12         CHAIRMAN ROSSI: I mean, if you 13        have to get somebody else to do it. 14         THE WITNESS: That became a 15        thought that we had starting in August 16        and September. 17         CHAIRMAN ROSSI: Okay. 18         THE WITNESS: You know, really, 19        are these guys really going to be able 20        to finish this? 21         CHAIRMAN ROSSI: Right, and 22        then -- and then -- if -- if -- if I'm 23        imagining -- I'm -- I'm not sure -- 24        but I am managing that, if you have a 25        thousand windows made by Glasswall,	1052

1      Monadnock v. Glasswall - Volume IV 2      now, you have got the rest by somebody 3      else --  4      THE WITNESS: If there were -- 5      we would have to -- if we started 6      installing two or three floors of 7      windows, and their factory was not 8      able to complete this, we -- you would 9      not be able to find another factory 10     that could manufacture that exact 11     window.  12     So, essentially, you'd have to 13     tear out and start all over again 14     whatever you installed.  15     CONTINUED EXAMINATION 16     BY MR. KLEINHENDLER:  17     Q    Why, because you needed 18     matching?  19     A    There's just a number of 20     reasons why it just wouldn't work. You 21     couldn't have somebody else come in and 22     fabricate that same window.  23     All factories are going to 24     assemble things differently, and paint 25     colors. There is just a long, long list of	1053  1      Monadnock v. Glasswall - Volume IV 2      and it just never happened. 3      CHAIRMAN ROSSI: All right. 4      Why don't we take a little break now. 5      (There was a discussion off the 6      record.) 7      (A break is taken.) 8      CHAIRMAN ROSSI: All right. 9      You are still under oath, Mr. Bauso. 10     All right. 11     CONTINUED EXAMINATION 12     BY MR. KLEINHENDLER: 13     Q    I would like to show you 14     Exhibit 117 and 118 there. 15     (Previously Marked Exhibit No. 16     117, Payment Application Document is 17     introduced into the proceedings.) 18     (Previously Marked Exhibit No. 19     118, Payment Application Document is 20     introduced into the proceedings.) 21     Q    Payment application number ten 22     from Glasswall, one for each building. 23     Do you see those? 24     A    Yes. 25     Q    And can you just describe to
1054  1      Monadnock v. Glasswall - Volume IV 2      reasons why that wouldn't work. 3      CHAIRMAN ROSSI: Okay. 4      MR. RENDA: I have a question: 5      When you say, in the 6      screen, "We will accept no windows 7      until the agreement is signed," I am 8      still not clear what kind of agreement 9      were you looking to have signed. 10     THE WITNESS: There is -- I was 11     being told at one point that Glasswall 12     was going to issue some type of 13     amended agreement that was going to 14     lay out the completion and the terms 15     under which this thing would be 16     completed, the project with dates, and 17     with consequences if they didn't hit 18     those dates. 19     MR. RENDA: So you were looking 20     for something firm from them -- 21     THE WITNESS: Yes. 22     MR. RENDA: -- as to delivery 23     and what would happen if they didn't 24     deliver? 25     THE WITNESS: Correct, correct,	1056  1      Monadnock v. Glasswall - Volume IV 2      the panel what they are. 3      A    It's a monthly payment 4      requisition from Glasswall with an itemized 5      payment breakdown. 6      Q    Does it say how much was paid 7      to date for these guys for each month? 8      A    It says how much is 9      previously -- previous certificates of 10     payment. 11     Q    So from parcel A, as of 11 -- 12     as of November, how much was paid to 13     Glasswall? 14     CHAIRMAN ROSSI: He's not 15     saying they were paid -- is the way 16     these things work, as you know, is 17     that you come in; you have a 18     certificate of payment; and you say 19     what was billed in the past -- isn't 20     that right -- not necessarily paid. 21     So that's going to be my 22     next -- I guess your next question 23     afterwards -- were these numbers, the 24     previous certificates, actually paid? 25     THE WITNESS: From my

<p style="text-align: right;">1073</p> <p>1        Monadnock v. Glasswall - Volume IV 2              And this letter was simply sent 3              out as a: 4              "All right. Here we are. It's 5              December 31st. We still don't have 6              windows. You are still in default." 7        CONTINUED EXAMINATION 8        BY MR. KLEINHENDLER: 9        Q    Do you recall a meeting on 10      December 6th or 7th in Miami? 11      CHAIRMAN ROSSI: But at this 12      time, when you wrote this letter, 13      Exhibit 133, you wanted the windows? 14      THE WITNESS: From what I 15      recall -- and, again, I think it was 16      clear they weren't going to be 17      shipped -- but there were enough 18      windows and enough progress had been 19      made that I believe we probably would 20      have accepted deliveries at that 21      point. 22      CHAIRMAN ROSSI: All right. 23      Okay. Thank you. 24      CONTINUED EXAMINATION 25      BY MR. KLEINHENDLER:</p>	<p style="text-align: right;">1075</p> <p>1        Monadnock v. Glasswall - Volume IV 2              number is that? 3              MR. KLEINHENDLER: 141. 141. 4              Q    Now, at this point, in January, 5              2014, they are now terminated, right? 6              A    As of the date of this letter, 7              yes. 8              MR. KLEINHENDLER: Can you put 9              the picture back up. 10         MS. FODOR: They are not? 11         MR. KLEINHENDLER: They are 12         now -- 13         MS. FODOR: Now terminated? 14         THE WITNESS: Yeah, as of the 15         date of that letter. Yes. 16         Q    Okay. And let's just -- you 17         know, we have got this picture up. This is 18         a picture of the buildings as of early 19         January. 20         Do you see that? 21         Do you -- do you recognize that 22         that was the -- that was the status of the 23         project at that time? 24         A    I remember it vividly. 25         Q    So explain now to this panel.</p>
<p style="text-align: right;">1074</p> <p>1        Monadnock v. Glasswall - Volume IV 2        Q    But they said no deliveries 3        until payment, correct? 4        A    Correct. 5        Q    Okay. Let's go to 141. 6        (Previously Marked Exhibit No. 7        141, 1/13/14 Notice of Termination 8        from Mr. Bauso to Mr. Colombo, 9        Document is introduced into the 10      proceedings.) 11      Q    And just 135. There was the 12      same letter for the other parcel, one 13      letter for each one? 14      A    Correct. 15      Q    And then? 16      (Previously Marked Exhibit No. 17      135, 12/31/13 Notice of Continuing 18      Default, Document is introduced into 19      the proceedings.) 20      Q    141 is a termination. Why 21      don't you just take a look at that? 22      You signed it. Do you agree 23      with what you put in there. 24      A    Yes, I remember that. 25      CHAIRMAN ROSSI: What -- what</p>	<p style="text-align: right;">1076</p> <p>1        Monadnock v. Glasswall - Volume IV 2        You have got these completed 3        superstructures and no windows. So what 4        were you going to do? 5        What did you do then? 6        Now that you've defaulted, what 7        are you going to do? 8        Or what did you discuss doing 9        with the owner, with Glasswall, with 10      anybody else? 11      A    Well, just one step back, the 12      last step before this termination letter 13      was issued, I asked John and decided to 14      call a meeting where he came to New York 15      with his attorney. 16      And the four of us, myself with 17      Judah, sat in a room for three days and 18      tried to come to an agreement on terms 19      under which -- tried basically to find a 20      middle ground between their demand for 21      payment prior to shipping windows, come up 22      with a payment schedule acceptable to both 23      parties, come up with a 24      schedule-to-complete acceptable to both 25      parties, come up with a means for</p>

1        Monadnock v. Glasswall - Volume IV 2        addressing quality control issues and a way 3        for us to hold back some money, at least, 4        until they were addressed in the field.  5        If we accepted windows that 6        still had quality control issues, I was 7        trying to say we will accept windows, but 8        you have got to let us hold back a little 9        bit of money until they're resolved, the QC 10      issues.  11      We spent three days in a room. 12      And in the end, my feeling was there was 13      just little to no effort on Glasswall's 14      part to meet me halfway. And at the end of 15      that, I just -- it just seemed there was no 16      other solution other than terminating.  17      And our hope was terminating 18      would result in either the bonding company 19      coming in and taking over Glasswall's 20      operations and completing this job, or the 21      bonding company allowing us to -- and 22      funding us in hiring another company to 23      build the job, build the curtain wall.  24      Q     Okay. So you sent a copy of 25      the termination to the bonding company?	1077	1079
1078	1080	

1        Monadnock v. Glasswall - Volume IV 2                    (There was a discussion off the 3                    record.) 4        Q Do you recall signing this 5                    agreement? 6        A Yes. 7                    CHAIRMAN ROSSI: 146. 8                    (Previously Marked Exhibit No. 9                    146, Amendment Agreement, Document is 10                  introduced into the proceedings.) 11        Q And was the -- when you signed 12                  this agreement, did you understand that you 13                  were giving up the -- were you in your mind 14                  giving up any rights that you had against 15                  Glasswall to date? 16        A No, not at all. The -- the 17                  intention of the agreement was to say: 18                  "Okay. Bonding company, owner, 19                  Glasswall, Monadnock, are agreeing on the 20                  terms under which they will finish this job 21                  and deliver the windows. And we are going 22                  to basically defer our grievances with each 23                  other until after that is done." 24        That was my understanding of 25                  the purpose of the agreement, as well as,	1081	1        Monadnock v. Glasswall - Volume IV 2                    days or as much as a week or more. 3                    There were some points where 4                    the iron workers became very close to 5                    running out of work, and maybe a day or two 6                    where they had no work. But for the most 7                    part, the shipments continued. 8        Q Okay. Let's take a look at 9                    Exhibit 151. 10                  (Previously Marked Exhibit No. 11                  151, 10/28/14 Letter from Mr. Bauso to 12                  Mr. Anderson, Document is introduced 13                  into the proceedings.) 14        Q Which is an October letter from 15                  you to John Anderson. 16                  CHAIRMAN ROSSI: What number? 17                  MR. KLEINHENDLER: 151. 18        Q Do you recall whether, towards 19                  the end of October, there became an issue 20                  as to payments with -- between you and 21                  Glasswall? 22        A Yes. Yes. John Anderson at 23                  the time notified me that they were not 24                  going to complete. I believe there were 25                  like a few floors remaining in the hoist	1083
1082	1        Monadnock v. Glasswall - Volume IV 2                  you know, setting out the payment terms 3                  under which that would happen. 4        Q Now, after you signed this 5                  agreement, how did the shipments of windows 6                  progress? 7        A Well, the first thing that 8                  happened was, the day after it was signed, 9                  I got a call from John Anderson saying: 10                 "I need to tell you that 11                  several hundred of the windows were 12                  fabricated incorrectly with the hinges on 13                  the wrong side. What should we do?" 14                 Which -- we began to work on 15                  how to resolve that issue. 16                 But I believe -- I don't 17                  remember exactly, but I believe, within a 18                  week to two weeks of the agreement being 19                  signed, shipments began to happen to the 20                  job site. 21        Q And were shipments continuous, 22                  or were there problems with it? 23        A You know, for the most part, 24                  there were obviously some stumbles and 25                  dates missed along the way, missed by a few	1084	1        Monadnock v. Glasswall - Volume IV 2                  run to be shipped, and he basically started 3                  telling me that they were not going to make 4                  those deliveries until they received -- or, 5                  rather, the bonding company received 6                  payment in full for the balance of the 7                  project. 8                  And he was asking for it in a 9                  way that seemed to not be in accordance 10                 with the agreement that had been signed 11                 back in March or April. 12        Q And that's why you wrote him 13                 this letter? 14        A We conferred, and we decided 15                 that sending the money -- yeah, this was 16                 saying that, you know -- I asked him point 17                 blank if we sent the money directly 18                 there -- because he -- he made a point of 19                 stating to me on several occasions, that if 20                 accordance -- in accordance with the 21                 agreement, we deposited the money in the 22                 Duane Morris escrow account, he in no 23                 uncertain terms told me that they would not 24                 ship the windows to us. 25                 We discussed this, and we

<p>1           Monadnock v. Glasswall - Volume IV</p> <p>2           A    Correct.</p> <p>3           (Previously Marked Exhibit No.</p> <p>4           180, Formal Termination, Document is</p> <p>5           introduced into the proceedings.)</p> <p>6           Q    You did it for both parcels?</p> <p>7           (There was a discussion off the</p> <p>8           record.)</p> <p>9           Q    And you did it for both</p> <p>10          parcels?</p> <p>11          A    Correct.</p> <p>12          Q    So what happened subsequent to</p> <p>13          this termination? What work did you do on</p> <p>14          the project in connection with the curtain</p> <p>15          wall?</p> <p>16          A    Subsequent to the termination,</p> <p>17          I mean, Paul and his staff basically went</p> <p>18          through a process of getting all of the</p> <p>19          remaining items dealt with through other</p> <p>20          vendors.</p> <p>21          Q    Okay. I want you to take a</p> <p>22          look at Exhibit 167.</p> <p>23          (Previously Marked Exhibit No.</p> <p>24          167, E-Mail Chain, between Judah</p> <p>25          Greenblatt and Robert Boote,</p>	<p>1           Monadnock v. Glasswall - Volume IV</p> <p>2           ultimately completed by them.</p> <p>3           Q    It says here:</p> <p>4           "MC" -- Monadnock -- "will not</p> <p>5           meet with Glasswall to discuss the</p> <p>6           completion of the work unless it is within</p> <p>7           the context of the WFIT takeover</p> <p>8           agreement."</p> <p>9           Do you know what they are</p> <p>10          taking about here?</p> <p>11          A    I think the lawyer was trying</p> <p>12          to say that:</p> <p>13          "We are not having -- Glasswall</p> <p>14          has been terminated. We are not having any</p> <p>15          direct conversations with them regarding</p> <p>16          the completion of these items. If</p> <p>17          Westchester wants to basically take over</p> <p>18          these responsibilities and on their behalf</p> <p>19          have Glasswall complete them, then that's</p> <p>20          fine."</p> <p>21          We are basically saying we will</p> <p>22          communicate with the bonding company</p> <p>23          regarding that, but not directly with</p> <p>24          Glasswall.</p> <p>25          Q    And did Glasswall ever -- did</p>
<p>1           Monadnock v. Glasswall - Volume IV</p> <p>2           March 23rd, 2015, Document is</p> <p>3           introduced into the proceedings.)</p> <p>4           Q    And this is an E-Mail between</p> <p>5           Judah Greenblatt and Robert Boote,</p> <p>6           March 23rd.</p> <p>7           When you terminated Glasswall</p> <p>8           in 2015, again, did you turn to the bonds</p> <p>9           to step in and perform?</p> <p>10          A    Yes, we sent notification to</p> <p>11          them.</p> <p>12          Q    Did they agree to that?</p> <p>13          A    From what I recall and from</p> <p>14          reading this, I think they made statements</p> <p>15          to the effect that:</p> <p>16          "Yes, we think Glasswall can</p> <p>17          complete these items."</p> <p>18          But nothing ever became of</p> <p>19          that.</p> <p>20          Q    Did Glasswall ever send people</p> <p>21          down to complete the work that you had</p> <p>22          identified in your March 4th letter of</p> <p>23          2015?</p> <p>24          A    Not that I recall. I don't</p> <p>25          believe any of the items on that list were</p>	<p>1           Monadnock v. Glasswall - Volume IV</p> <p>2           the bonding company ever ask Glasswall to</p> <p>3           do the work to your knowledge?</p> <p>4           A    They may have asked, but it</p> <p>5           didn't happen.</p> <p>6           Q    Let's take a look at 189. I</p> <p>7           want to back it up a little here. Sorry,</p> <p>8           182.</p> <p>9           (Previously Marked Exhibit No.</p> <p>10          189, Document is introduced into the</p> <p>11          proceedings.)</p> <p>12          (Previously Marked Exhibit No.</p> <p>13          182, Temporary Certificate of</p> <p>14          Occupancy for building B, floors 1</p> <p>15          through 21, with the exception of the</p> <p>16          retail, Document is introduced into</p> <p>17          the proceedings.)</p> <p>18          Q    This is a -- can you just</p> <p>19          describe what this is, 182?</p> <p>20          A    This is a temporary certificate</p> <p>21          of occupancy for building B, floors 1</p> <p>22          through 21, with the exception of the</p> <p>23          retail.</p> <p>24          Q    183, 183?</p> <p>25          (Previously Marked Exhibit No.</p>

<p style="text-align: right;">1133</p> <p>1        Monadnock v. Glasswall - Volume IV 2 written, or any form. He communicated this 3 after the termination. 4        Q This came one day after the 5 termination? 6        A Correct. 7        Q And because it came one day 8 after the termination, you didn't want him 9 to come back? 10      A At that point, it's up to the 11 bonding company to get him back. The 12 contract, the agreement was terminated; and 13 it was up to the bonding company to get him 14 back. 15      Q Didn't the bonding company -- 16 didn't the bond being company attorney, 17 Mr. Boote, tell you that they were ready, 18 willing, and able to send Glasswall back? 19      A Yes, he did. 20      Q And you said no? 21      A I don't recall saying no, but I 22 don't recall it happening. Do you have 23 something -- 24      Q Take a look at the last 25 document in Exhibit D in my book.</p>	<p style="text-align: right;">1135</p> <p>1        Monadnock v. Glasswall - Volume IV 2 with each other. I was under the 3 impression that I was not to communicate 4 directly with him about these matters, that 5 it was now up to the attorneys to 6 communicate what would happen next. 7        Q Hadn't you previously sent 8 termination notices to Glasswall? 9        A And ceased all communications 10 directly with them on those previous 11 termination notices as well. 12      Q Isn't it true that you didn't 13 want Glasswall to come back? 14      A Absolutely not. 15      Q Why didn't you just accept the 16 offer then? 17      A Because we had waited for 18 several months. Glasswall in my opinion 19 ceased to exist as a company. It was John 20 Anderson and one or two people. They 21 verbally basically told me they had no 22 intention of finishing this. 23      We sent them multiple letters. 24      We sent them a default notice. They did 25 not respond. They -- this E-Mail was</p>
<p style="text-align: right;">1134</p> <p>1        Monadnock v. Glasswall - Volume IV 2                    (Previously Marked Exhibit No. 3                    D, March 18 E-Mail, Document is 4                    introduced into the proceedings.) 5        Q The last page of D. 6                    (There was a discussion off the 7 record.) 8        MR. KLEINHENDLER: March 18th 9                    E-Mail? 10      MR. CINQUE: Yes. 11      Q So on the bottom one there, 12 John Anderson sends you his letter on 13 March 17th at 5:58. On March 18th at 9:50 14 in the morning, you say: 15      "John, the contracts have been 16 terminated, and this is now a legal matter 17 that will be handled by attorneys." 18      A Correct. 19      Q So is it your position that 20 because he was one day late in sending the 21 letter you didn't want anything to do with 22 him? 23      A My position is that, once the 24 termination notice is sent, it then becomes 25 a matter of the attorneys communicating</p>	<p style="text-align: right;">1136</p> <p>1        Monadnock v. Glasswall - Volume IV 2 received, my first communication from him, 3 only after the termination letter went out. 4                    And I was advised by counsel at 5 that point: 6                    "It's out of your hands now. 7 Just let the attorneys settle if. If the 8 bonding company wants to come back in, then 9 they will." 10      And they did not. 11      Q And weren't you told -- 12 withdrawn. 13      A Let's look at the third 14 paragraph of that letter. I'm back now to 15 Mr. Anderson's letter to Mr. Bauso, 16 March 17th. 17      MR. KLEINHENDLER: We are 18 back -- 19      MR. CINQUE: We are back to -- 20      MR. KLEINHENDLER: The book. 21      MR. CINQUE: I forgot what 22 exhibit it is. 23      (There was a discussion off the 24 record.) 25      MR. KLEINHENDLER: Exhibit 164.</p>

<p style="text-align: right;">1165</p> <p>1        Monadnock v. Glasswall - Volume IV 2            A Which we already discussed, 3 yes. 4        Q Seven, LEED documentation, said 5 it would be delivered with warranties. 6            Eight, in-fill panels: 7              "Need schedule of panels, 8 dimensions, and measurements." 9            Wouldn't they need that 10 information? 11          A I am 99 plus percent sure that 12 our staff, prior to the default notice, 13 conveyed that information on the 14 specifications. 15          Q Number nine, the picture frame 16 metal, he says: 17            "Material was shipped and 18 received at the job site." 19          Do you know if it was? 20          A I don't believe -- if it was on 21 the list, I am 99 percent certain it was 22 not. 23          Q Number ten on the leuco band, 24 he says he needs a list of the panels. 25            Wouldn't they need the list?</p>	<p style="text-align: right;">1167</p> <p>1        Monadnock v. Glasswall - Volume IV 2 that point that it's out of my hands. 3        Q Weren't you advised that you 4 needed to terminate your contract with 5 Glasswall in order to bring a claim against 6 the bonding company? 7        A There was some discussions 8 about that, but, honestly, I don't 9 remember -- and I am not sure I understood 10 whether that was even true or -- and all I 11 know is -- you know, this list of items 12 that we needed to get done is the reason I 13 wanted the letter sent. 14          Q Didn't your lawyers send you 15 legal statements like monthly bills? 16          A Yes. 17          Q I'm going to show you a bill 18 from February 3, 2014. Mark it as S -- 19 this is S, I believe. 20          MR. KLEINHENDLER: Some of the 21 soft costs are legal fees. That is 22 why we had to produce these records. 23          MR. CINQUE: It's S. 24          (Previously Marked Exhibit No. 25 S, Legal Bills, Document is introduced</p>
<p style="text-align: right;">1166</p> <p>1        Monadnock v. Glasswall - Volume IV 2            A Yes, and I am sure they got it. 3        Q But sitting here today, do you 4 know for sure, or are you just speculating? 5        A I don't know for sure, but we 6 had a team of people trying to close out 7 this contract. And they sent constant 8 correspondence to Glasswall's team leading 9 up to the time of the default to try to get 10 these items finished. 11          We were under tremendous 12 pressure to finish the building. 13          Q So if you were under such 14 pressure, why didn't you just say: 15            "Hey, come on in and do the 16 work" when they were offering to do it? 17          A As I stated before, my feeling 18 was, if they had ceased to exist as a 19 company, that they had no ability to do it, 20 that they had no resources to do it, they 21 verbally told me they would not do it. 22          We sent them written letters 23 asking them to do it, and they did not. 24 And only after this termination, did they 25 respond. And I was advised by counsel at</p>	<p style="text-align: right;">1168</p> <p>1        Monadnock v. Glasswall - Volume IV 2 into the proceedings.) 3        Q I direct your attention to the 4 entry for 1/11/2014. 5        MR. KLEINHENDLER: Do you have 6 the page on the bottom? 7        MR. CINQUE: It's page 39173. 8        This is S. 9        MS. FODOR: Respondent's S. 10          MR. KLEINHENDLER: What are you 11 up to? 12          MR. CINQUE: I am on page 13 39173, an entry for 1/11/2014, number 14 three. 15          Q The lawyer's billing you for 16 this answer to this question: 17            "Can the performance bond cover 18 the damages incurred by the contractor as a 19 result of the manufacturer's late delivery 20 of windows ordered by the contractor if the 21 owner has never terminated the contract 22 between the contractor and the owner?" 23          Did you have any conversations 24 with your lawyer about that issue? 25          MR. KLEINHENDLER: I'm going to</p>